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this Memorandum Decision shall not be  
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**IN THE  
COURT OF APPEALS OF INDIANA**

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RANDAL R. LONG,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 20A03-0606-CR-255
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

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APPEAL FROM THE ELKHART CIRCUIT COURT  
The Honorable Terry Shewmaker, Judge  
Cause No. 20C01-0506-FA-101

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**March 9, 2007**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**DARDEN, Judge**

## STATEMENT OF THE CASE

Randal R. Long appeals his convictions, after a trial by jury, of two counts of dealing in cocaine, as class A felonies.

We affirm.

## ISSUE

Whether sufficient evidence supports Long's convictions.

## FACTS

In January of 2005, Confidential Source 91043 ("the CS") was assisting Elkhart County law enforcement's special drug unit in locating drug traffickers. Detective Rose Privett of the Elkhart County Police Department was working "undercover" with the unit and "teamed up" with the CS. (Tr. 110). Based upon the work of this team, on June 13, 2005, the State charged Long with two counts of dealing in cocaine, as class A felonies; specifically, the State alleged that on February 2, 2005, and March 2, 2005, Long had delivered cocaine in amounts weighing three grams or more.

Thereafter, at Long's trial on May 8 – 9, 2006, the following evidence was presented to the jury. In late January, the CS made the acquaintance of a man known as "Woody" and told the man he wanted a connection to make a purchase of crack cocaine. (Tr. 35). Woody told the CS that a man he called "D" would sell it to him. The CS contacted Privett, who – posing as the CS's wife – came to his location and drove the CS and Woody to the residence where Woody said that D lived. However, no one was home.

On February 2, 2005, the CS and Privett decided to try the residence again. Privett searched the CS and fitted him with a wire. Then Privett drove the CS to the residence, where the CS exited the car and went to the door and knocked. Long answered the door; the CS told Long that he wanted “to hook up” – to make a drug purchase, and that Woody had referred him. Long invited the CS inside. The CS asked to buy “rock,” or crack cocaine. (Tr. 48). Long told him that the price was \$800. The CS said his wife had the money in the car. The CS left the residence and got \$800 in prerecorded buy money from Privett. The CS gave Long the \$800, and Long went to his kitchen and then returned with a chunk of crack cocaine. Long broke off a piece, put it on the scale indicating its weight as 28 grams, bagged it, and handed it to the CS. Long also gave the CS a piece of paper on which he had written three telephone numbers and “Deeski,” indicating that this was how the CS “could reach [Long] . . . if [the CS] wanted anything.” (Tr. 47).<sup>1</sup> The CS left the residence, got in the car with Privett, and gave her the baggie of cocaine. Privett took the CS to another location, where he was again searched and the wire removed.<sup>2</sup>

Several days later, Privett showed a six-man photo array to the CS. The CS “immediately pointed to” Long as the man that had sold him the crack cocaine on February 2, 2005. (Tr. 133). The CS circled Long’s photograph on the array and wrote, “I know this person as Dee. He sold me crack cocaine.” (Ex. 8).

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<sup>1</sup> A copy of this piece of paper was entered into evidence.

<sup>2</sup> The recording made on the wire of the February 2<sup>nd</sup> transaction was published to the jury.

On March 2, 2005, Privett called the first number on the paper given to the CS by Long, and when someone answered, she handed the telephone to the CS. The CS made arrangements to purchase cocaine again after allowing time for Long to get to his residence. Subsequently, Privett's telephone rang, and she again handed it to the CS; he told her that Long was now home. Privett drove to Long's residence, and the CS took her inside with him – introducing her as his wife. Long had a bag of crack cocaine “ready on the scale.” (Tr. 75). Privett took \$800 in prerecorded buy money from her pants pocket and handed it to Long, who counted it. The CS picked up the crack cocaine, and he and Privett left the residence. Both were wearing wires during this transaction.<sup>3</sup> In the car, the CS gave the crack cocaine to Privett.

Privett had secured the substance purchased by the CS on February 2<sup>nd</sup>, and she also secured that obtained on March 2<sup>nd</sup>. Both baggies of purported crack cocaine were tested by a county forensics laboratory. According to the analyst, each contained “pure cocaine freebase or crack.” (Tr. 222). The February 2<sup>nd</sup> delivery was found to weigh 25.840 grams, and the March 2<sup>nd</sup> quantity weighed 26.478 grams.

The jury convicted Long as charged.

### DECISION

When addressing a claim of insufficient evidence, we do not reweigh the evidence or judge the credibility of the witnesses. *McHenry v. State*, 820 N.E.2d 124, 126 (Ind. 2005). Moreover, we “must consider only the probative evidence and reasonable

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<sup>3</sup> The recording of the wire worn by Privett was published to the jury.

inferences supporting the verdict.” *Id.* Thus, we “must affirm” if the probative evidence and reasonable inferences drawn therefrom could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt. *Id.*

Long argues that there was not sufficient evidence to support his convictions. Specifically, he asserts that there were “inconsistencies” in the testimony of Privett and the CS, and these inconsistencies render “unreliable” their identification of Long as the person “who sold cocaine on February 2, 2005 and March 2, 2005.” Long’s Br. 3. Hence, he concludes, a “reasonable trier of fact would not have concluded” that he “was the same individual that had sold cocaine to” Privett and the CS on those dates. *Id.* at 4. We cannot agree.

We note that Long fails to cite any testimony by Privett and the CS that he believes to be inconsistent. Rather, he cites testimony by the CS to the effect that at trial, Long’s appearance was somewhat different from that in his photograph in the photo array. However, the jury had the photo-array and saw Long; thus, it could determine the weight to be given the CS’s identification testimony. Further, his own brief acknowledges that “both made in court identifications of” Long as the seller of the cocaine to them. *Id.* Thus, his argument essentially asks that we assess the credibility of these witnesses, which we do not do. *See McHenry*, 820 N.E.2d at 126. The CS testified at length about the two transactions that he said he conducted with Long. Privett testified about her presence during the second transaction and that Long was the seller. As the State correctly notes, the jury heard the recordings of both transactions – evidence which

allowed them to assess the credibility of the CS and Privett and the weight to give their testimony.

The probative evidence and reasonable inferences therefrom support the jury's conclusion that on February 2, 2005 and March 2, 2005, Long delivered cocaine in quantities of three grams or more. Therefore, sufficient evidence supports his convictions.

Affirmed.

BAKER, J., and ROBB, J., concur.